

Proposed Land Exchange
between
Bureau of Land Management
and
Agua Caliente Band of Cahuilla Indians

EXECUTIVE SUMMARY

INTRODUCTION

The Bureau of Land Management (BLM) is a federal agency responsible for managing the public lands in accordance with federal law, regulation, and policy in order to sustain the health, diversity, and productivity of the public lands for the use and enjoyment of present and future generations. The BLM now proposes to exchange certain of these public lands in the Santa Rosa and San Jacinto Mountains National Monument (Monument) for lands owned by the Agua Caliente Band of Cahuilla Indians (Tribe), also within the Monument. The Federal Land Policy and Management Act of 1976 provides that public lands or interests therein may be disposed of by exchange where it is determined that the public interest will be well served by making that exchange, provided that when considering public interest, full consideration shall be given to better federal land management and the needs of state and local people, including needs for lands for the economy, community expansion, recreation areas, food, fiber, minerals, and fish and wildlife, and it is found that the values and the objectives which federal lands or interests to be conveyed may serve if retained in federal ownership are not more than the values of the nonfederal lands or interests and the public objectives they could serve, if acquired.

This draft Environmental Impact Statement (EIS) is intended to inform the public about environmental consequences of the proposed land exchange and, after having evaluated public comments regarding this draft EIS, help BLM officials make a decision that is based on an understanding of these consequences. It is now being circulated for public review and comment. **Written comments must be received by the BLM no later than 90 days following publication in the *Federal Register* of a Notice of Availability of the draft EIS for public review and comment.** Comments will be incorporated into the final EIS, as appropriate. The BLM Palm Springs-South Coast Field Manager is delegated to issue a decision on the proposed land exchange.

Purpose and Need

The purpose and need for the proposed land exchange is to improve opportunities for the use or protection of public lands and to promote their effective and efficient management. It would reduce the extent of “checkerboard” landownership by consolidating BLM and Tribal land bases, thereby providing for more logical and consistent land management responsibility in the Monument.

Issues Addressed

The following issue categories have been established in response to public comments and agency input presented during the public scoping process that occurred in 2012:

- purpose and need for the proposed land exchange
- conformance with statutes, regulations, policies, plans, and management strategies

- development of alternatives and mitigation measures
- public access to trails
- protection of threatened and endangered species
- potential development of exchanged lands

Twenty-two (22) specific issue questions in these categories were identified for examination in this draft EIS:

1. Purpose and Need for the Proposed Land Exchange

How would the proposed land exchange and alternatives facilitate effective management of federal and Tribal lands through consolidation of lands and a reduction of checkerboard land ownership, particularly with respect to sections 16 and 36, T.4S. R.4E.? Conversely, how would continuation of current management as expressed in a no action alternative adversely affect the management of federal and Tribal lands?

How would the proposed land exchange and alternatives support the resource preservation goals identified in the Indian Canyons Master Plan and enhance implementation of the Tribal Habitat Conservation Plan?

How would the proposed land exchange and alternatives support the conservation of resource values in the project area?

2. Conformance with Statutes, Regulations, Policies, Plans, and Management Strategies

How do the proposed land exchange and alternatives conform to the Federal Land Policy and Management Act of 1976; the Santa Rosa and San Jacinto Mountains National Monument Act of 2000; the Omnibus Public Land Management Act of 2009; Secretarial Order No. 3308 regarding management of the National Landscape Conservation System (November 15, 2010); the BLM's 15-Year Strategy for the National Landscape Conservation System (2010-2025); BLM Manual 6220 regarding management of national monuments, national conservation areas, and similar designations (July 13, 2012); and the BLM-California's five-Year Strategy for National Conservation Lands (2013-2018), particularly with respect to protection of the resource values for which the Monument was designated?

How do the proposed land exchange and alternatives conform to the BLM's California Desert Conservation Area (CDCA) Plan, as amended, particularly with respect to the land tenure exchange and sale criteria described in the CDCA Plan Amendment for the Coachella Valley which establish that land exchanges and sales may be considered if they would, in part, result in a net benefit to conservation areas (which include the Santa Rosa and San Jacinto Mountains National Monument, and the Santa Rosa and San Jacinto Conservation Area established through the Coachella Valley Multiple Species Habitat Conservation Plan), not remove rare species nor their habitat, and not divest of public domain lands in a manner which eliminates a significant public benefit?

How does the Tribe's suspension of consultation with the U.S. Fish and Wildlife Service to acquire a section 10(a) permit under the Endangered Species Act for the Tribal Habitat Conservation Plan affect analyses in the EIS?

How would the disposal of section 36, T.5S. R.4E., within which the BLM determined through its CDCA Plan Amendment for the Coachella Valley that certain public lands were eligible for designation as a national wild and scenic river, conform to the plan amendment and be consistent with statutory requirements to protect the values which comprise the basis for the eligibility determination?

3. *Development of Alternatives and Mitigation Measures*

Will alternatives be developed that identify mitigation in the form of reserved federal rights or interests for public access to the exchanged lands, as well as variations of properties to be included in the exchange, such as BLM's retention of sections 16 and 36, T.4S. R.4E.?

Could conditions be incorporated in the title deed such that specific areas in the exchange parcels acquired by the Tribe will not be developed in order to protect Peninsular bighorn sheep and other species?

What are the advantages and disadvantages of ongoing coordinated management of the proposed exchange lands as would occur under the no action alternative?

4. *Public Access to Trails*

How would the management of lands acquired by the Tribe, pursuant to the Indian Canyons Master Plan and Tribal Habitat Conservation Plan, affect current and future public use and enjoyment of existing trails, acknowledging Tribal sovereignty over the lands it manages and the absence of a regulatory mechanism for public involvement in future decision-making processes?

How would the trails management plan element of the Coachella Valley Multiple Species Habitat Conservation Plan be affected by the proposed land exchange and alternatives, particularly with respect to the public's access to trails that comprise the identified trail system, and construction of the proposed Garstin to Thielman perimeter trail and its use by hikers with dogs?

How will the qualitative characteristics of trails affected by the proposed land exchange and alternatives, such as aesthetics, variety, steepness, condition, and ecology that establish a trail's importance to the public, be addressed in the EIS?

How will the BLM ensure that the inventory of trails affected by the proposed land exchange and alternatives is complete for purposes of environmental analysis, including trails that have not previously been mapped but are currently used?

How would opportunities to hike cross-country and on "social" trails (i.e., trails established by use, not construction) be affected by the proposed land exchange and alternatives?

How would current and future levels of trail use be affected by the proposed land exchange and alternatives?

5. *Protection of Threatened and Endangered Species*

How would the proposed land exchange and alternatives support recovery of Peninsular bighorn sheep and protect its designated critical habitat, as well as support recovery of the desert tortoise, least Bell's vireo, and southwestern willow flycatcher, particularly considering foreseeable future management of the exchanged lands?

Upon exchanging lands as proposed or under one of the alternatives, how would Peninsular bighorn sheep and designated critical habitat be affected by recreational trail access, particularly during the lambing and water stress seasons?

How would the effects of climate change be addressed as it relates to the BLM's responsibility to provide for the recovery of threatened and endangered species?

6. *Potential Development of Exchanged Lands*

How would the proposed land exchange and alternatives affect potential development on the exchanged parcels, i.e., would the potential for development overall be increased, decreased, or remain the same?

How will potential development of the eastern portion of section 36, T.4S. R.4E., upon acquisition by the Tribe be addressed in the EIS, acknowledging the potential for development of private lands in the adjacent section (section 31, T.4S. R.5E.)?

Acknowledging Tribal sovereignty over lands managed by the Agua Caliente Band of Cahuilla Indians and the absence of a regulatory mechanism for public involvement in future decision-making processes, how will the EIS address potential future changes to the Indian Canyons Master Plan which, in part, establishes a framework for guiding conservation efforts and development, as well as address changes in land use allocations under the Tribal Habitat Conservation Plan that could increase or decrease levels of development and conservation through modification of the development/conservation ratios, particularly in the Mountains & Canyons Conservation Area?

Responses and/or analyses pertaining to these issue questions are addressed in this draft EIS.

ALTERNATIVES

The alternatives identified for the proposed land exchange are based on the extent of the selected public lands that may be exchanged for the offered Tribal lands, pending completion of land appraisals and the land value equalization process. For analysis purposes, the proposed action consists of three scenarios. Implementation of scenario one would result in up to 4,015 acres of public lands being transferred to the Tribe, with the BLM acquiring up to 1,470 acres of Tribal lands. Scenario two would result in up to 4,656 acres of public lands being transferred, with the BLM acquiring up to 1,470 acres of Tribal lands. Scenario three would result in up to 5,799 acres of public lands being transferred, with the BLM acquiring up to 1,470 acres of Tribal lands.

A preferred alternative is also identified that is more closely aligned with the purpose and need for the land exchange than the proposed action, particularly scenario three. It would result in up to 5,291 acres of public lands being transferred to the Tribe, with the BLM acquiring up to 1,470 acres of Tribal lands. While it represents the BLM's likely choice for a decision at this time, the

agency's final decision may or may not be the preferred alternative, depending on public input, additional information received during the public comment period for this draft EIS, and outcome of the land value equalization process.

A no action alternative is presented as a requirement of the regulations promulgated by the Council on Environmental Quality for implementing the National Environmental Policy Act. While the no action alternative does not respond to the purpose and need for the action, it provides a useful baseline for a comparison of environmental effects and demonstrates the consequences of not meeting the need for the action.

ENVIRONMENTAL CONSEQUENCES

The existing condition and trend of various elements of the human environment are described in chapter three of this draft EIS. Only those environmental elements determined to be potentially impacted by the proposed action or alternatives, or identified through scoping as significant issues to be analyzed in depth, are carried forward for further analysis in chapter four; such environmental elements are recreation resources, threatened and endangered animal species, BLM sensitive animal species, wild and scenic rivers, and lands with wilderness characteristics. Elements that would not be potentially impacted or were not identified through scoping as significant issues are not analyzed in chapter four. These include air quality, areas of critical environmental concern, climate change, cultural resources, energy, environmental justice, farmlands, floodplains, health and safety risks to children, invasive/nonnative species, minerals, Native American concerns, natural sound/human noise, threatened and endangered plant species, BLM sensitive plant species, visual resource management, wastes, water resources, wetlands/riparian zones, wilderness, and wildland fire management.

A summary of the anticipated impacts to recreation resources, threatened and endangered animal species, BLM sensitive animal species, wild and scenic rivers, and lands with wilderness characteristics is provided below. The reader is directed to chapter four of this draft EIS for a complete description of potential impacts.

Recreation Resources

Implementation of the proposed action, preferred alternative, or no action alternative would not affect trail-based opportunities for non-motorized recreation (hiking, mountain biking, and horseback riding) in the project area. Access to about 12.1 miles of existing trails on the selected public lands and offered tribal lands would essentially be the same under all alternatives. Opportunities for cross-country travel, however, would vary by alternative: it would be greatest under the no action alternative and least under scenario three of the proposed action, though no empirical data are available to indicate the extent to which such opportunities are actually realized, and a decision whether these opportunities on public lands will continue to be available is pending. Opportunities for accessing the selected public lands and offered Tribal lands with dogs, irrespective of the proposed land exchange, are limited. Such opportunities are expected to remain limited.

Threatened and Endangered Animal Species

Implementation of the proposed action, preferred alternative, or no action alternative would not be likely to adversely affect Peninsular bighorn sheep, least Bell's vireo, southwestern willow flycatcher, or desert tortoise or designated critical habitat for these species, nor would

implementation of the proposed action or an alternative action be likely to adversely affect their essential or modeled habitat. Total conservation of the selected public lands and offered Tribal lands would be about 96 to 97 percent under all alternatives, thereby providing a high level of protection for the four listed species in the project area.

BLM Sensitive Animal Species

Conservation of modeled habitat for the burrowing owl—the only designated BLM sensitive animal species on public lands selected for the proposed land exchange—would occur at a high level (ranging from 96 to 99 percent of modeled habitat), whether under the proposed action, preferred alternative, or no action alternative.

Wild and Scenic Rivers

The segment of Palm Canyon located on public lands in section 36, T.5S. R.4E., was identified in BLM’s California Desert Conservation Area Plan Amendment for the Coachella Valley (2002) as eligible for designation as a National Wild and Scenic River. Such eligibility would continue under scenario one of the proposed action and the no action alternative whereupon section 36 would be retained by the BLM, but extinguished under scenarios two or three of the proposed action or the preferred alternative whereupon section 36 would be transferred to the Tribe.

Land with Wilderness Characteristics

A wilderness characteristics inventory of public lands contiguous to the offered Tribal lands, but not selected for the proposed land exchange, was conducted during preparation of the draft EIS. Preliminary findings and conclusion indicate these public lands possess wilderness characteristics. Implementation of the proposed action or preferred alternative would increase the size of one of two Wilderness Inventory Units, thereby increasing the extent of public lands with wilderness characteristics.

THE COLLABORATIVE PLANNING PROCESS

The public’s first formal indication of the proposed land exchange occurred upon enactment of the Santa Rosa and San Jacinto Mountains National Monument Act of 2000, which specifically provides that in support of the cooperative management agreement between the BLM and the Agua Caliente Band of Cahuilla Indians, public lands acquired with amounts allocated under the Land and Water Conservation Fund Act of 1965 may be exchanged with the Tribe without further authorization by law.

Three years later (2003), the Proposed Santa Rosa and San Jacinto Mountains National Monument Management Plan identified the specific parcels of public and Tribal lands that are now being considered for exchange; there have been no additions or subtractions to the selected public lands or offered Tribal lands since then.

In 2008, a Notice of Exchange Proposal was published in *The Desert Sun* newspaper regarding the proposed land exchange. The notice stated that the purpose of the land exchange is to consolidate the ownership of federal lands within the Santa Rosa and San Jacinto Mountains National Monument and to transfer certain lands to the Tribe, expecting to complete a series of exchange transactions to transfer all lands described in the notice. Interested parties were invited

to submit comments concerning the proposed land exchange and provide notice of any liens, encumbrances, or claims on the lands involved. No comments or notices were received.

Environmental assessment CA-060-0010-0005, which addressed environmental effects of the proposed land exchange between the BLM and the Tribe, was released for public review and comment on July 27, 2010. Comments were received from 144 individuals, ten organizations, and three governmental entities. Based on public comments and upon further internal review, it was determined that preparation of an environmental impact statement is necessary to address potentially significant effects of the proposed land exchange.

On February 10, 2012, the BLM published a notice in the *Federal Register* regarding its intent to prepare an environmental impact statement for the proposed land exchange between the BLM and the Tribe (77 FR 7179). The notice announced the beginning of the scoping process, invited public participation, and described how the time and place of public scoping meetings would be announced. It explained that the BLM was soliciting public input on the issues and impacts to be addressed in the EIS, as well as the extent to which those issues and impacts would be analyzed. The notice identified how written comments could be submitted by email or regular mail, indicating that all comments must be received no later than 30 days after the last public scoping meeting.

Following publication of the notice of intent to prepare an EIS, public scoping meetings were held at two locations in Palm Springs, California, on March 22 and 27, 2012: the Agua Caliente Spa Hotel and the BLM Palm Springs-South Coast Field Office, respectively. Approximately 75 people attended the first public scoping meeting on March 22, 2012; about 50 people attended the second meeting on March 27, 2012. Oral comments were provided by 24 individuals, six of whom represented non-governmental organizations. In addition, the BLM received scoping comment letters and email messages from 62 individuals, five of whom represented non-governmental organizations and two who represented governmental entities.

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